

**REMOTE SERVICE DELIVERY
DRAFT REPORT OF THE FUTURES COMMITTEE
TO STATEWIDE FAMILY LAW ADVISORY COMMITTEE (SFLAC)
SEPTEMBER 7, 2018**

FUTURES COMMITTEE PARTICIPANTS: Bill Howe, Chair; Stephen Adams, Colleen Carter-Cox, Jodi Harvey, Linda Hukari, Judge Karrie McIntyre, Bryan Marsh, OJD staff

SFLAC CHARGE TO FUTURES COMMITTEE:

Oregon courts continue to struggle to deal with the burden of a very large and growing number of self-represented litigants (SRLs). This is most problematic in family law where approximately 80% of cases have at least one SRL. Many litigants who self-represent cannot afford legal representation, though there is a significant minority who choose to self-represent even though they could afford an attorney. Many self-represented litigants underestimate the complexities of navigating the court system without legal counsel.

Regardless whether self-representation is out of necessity or choice, it imposes a significant challenge for judges and the court system to manage these cases. This is an access to justice issue. Without some assistance, most SRLs cannot successfully navigate the court system, and unfair outcomes become far more likely. The societal cost of inappropriate outcomes in family law matters, particularly those involving children, is huge.

Oregon has sought to assist SRLs by offering an increasingly robust library of forms and written instructions which are available at little or no cost, by offering courthouse facilitation programs and other innovations such as the informal domestic relations trial procedure with relaxed evidentiary rules.

The most effective assistance program for SRLs is the courthouse facilitation program. Thirty-four of Oregon's thirty-six counties provide courthouse facilitation services¹. However, the level of facilitation services across the state varies greatly; some counties share facilitation services and have very limited hours. Lincoln County, for example, offers facilitation services only on Fridays and Polk County only on Wednesdays. See Attachment 1: Summary of Facilitation Services. Further, even where robust facilitation programs are offered, accessing services commonly requires a trip to the courthouse and often entails a long wait for assistance. As a result, those who live a significant distance from the courthouse without adequate transportation, or those with small children or disabilities that make travel challenging, cannot effectively access facilitation services.

To provide better access to justice for SRLs, several jurisdictions in the U. S. have devised programs that can take advantage of sophisticated remote communication technology.

The Futures Committee investigated the possibility of providing remote family court facilitation services in Oregon. We studied those programs that have a strong virtual component to their

¹ Columbia and Curry Counties do not offer facilitation services.

services because we do not want to replace local courthouse facilitation programs. Instead, the goal is for remote services to complement local facilitation programs by being accessible to those who cannot easily access facilitation in a county courthouse.

The Futures Committee has investigated different models of remote services and has developed recommendations based on our findings.

FUTURES COMMITTEE RECOMMENDATION TO THE SFLAC:

The Futures Committee strongly urges the creation of a centralized remote access program to deliver legal information and greater access to justice to family law litigants initially, and later expand to include other areas of law.

This remote access program should be designed and function to supplement, not replace, Oregon's current courthouse facilitation programs. The goal of the remote delivery of services is to expand the reach of facilitation services by allowing litigants to access legal information by interacting with trained personnel through email, phone and multiple other modalities. A remote access service will provide access to justice for both those who do not have access to courthouse facilitators and to those who, for whatever reason, prefer a remote access portal to obtain the assistance that they need. Providing for remote access will increase the efficiency of the current facilitation programs by serving those litigants who do not need or desire in-person service, freeing facilitators to give in-person assistance to more litigants .

The policy goals achieved by instituting remote access service include:

1. Generate fairer outcomes and judicial efficiency by enabling self-represented litigants to become more fully informed about the judicial process and court procedures relevant to their concerns.
2. Promote access to justice by serving the customers of judicial services in the manner best suited to their needs and wishes.

BACKGROUND OF FUTURES COMMITTEE STUDY:

The subcommittee was initially informed by the comprehensive report "Serving Self-Represented Litigants Remotely: A Resource Guide" (SRLN 2016) by John Greacen. This guide discusses the programs in Alaska, California, Idaho, Maryland, Minnesota, Montana and Utah. It became apparent from this report and early investigations that the early groundwork was laid by the courts in Australia and then in the U.S. by the State of Alaska. The Alaska remote services program, pioneered by Stacey Marz, has been the inspiration and model for many other states' programs. Therefore, it seemed natural that our first investigations would be into Alaska and then to other jurisdictions that were influenced by that very successful program. Some programs were not only influenced by Alaska's, they were begun by people who had worked in the Alaska system.

After researching and considering the many programs throughout the states, we reached out to seven and interviewed the directors of those programs. We then narrowed our consideration

to the five programs that seemed most successful and which seemed to offer the most guidance to crafting a remote access program for Oregon. Various committee members had further discussions with representatives of these program and the following personal site visits were made: Alaska - Colleen and Jodi; Minnesota - Judge McIntyre; Northern California - Stephen; Orange County, California - Linda; and Utah - Bryan. Detailed reports of these site visits are attached. We did not visit Idaho and Montana because their programs are not fully developed, nor Maryland because its program is beyond the scope of what we contemplate for Oregon.

SUMMARY OF SITE VISITS: Note - complete surveys of site visits are attached.

ALASKA

Alaska is the prototype for most of the remote delivery programs in the country. Stacey Marz is the pioneering founder of the program. Under her direction is a system that serves the widespread and often remote population of Alaska in family law matters. Alaska helps self-represented litigants via a centralized phone-based system. This was considered the best means for the following reasons:

- Centralized system allows for far better quality control, staff training and staff support
- Providing information by phone or email eliminates the security concerns of in-person consultation
- Staff burnout has been virtually eliminated. They found that it was far less stressful for staff to work with customers on the phone than to endure the intense emotions these cases generate face to face. Staff also has the opportunity to consult with other staff if they have a question or concern about how to proceed and can recess then later call back the customer if the communication becomes too intense.
- This model allows for anonymity (though most choose to identify themselves)
- Customers increasingly expect on-line delivery of information
- Cost effective in that it is far less expensive than in person service
- Customers overwhelming like it
- Provides efficient access to information for those with disabilities, small children, travel challenges and the like
- Remote access was critical in Alaska since many areas are inaccessible by road. In many areas of the state the delivery of in-person facilitation would be impossible.

CALIFORNIA NORTH

The key components from Northern California for Oregon System are:

- Funding:
 - Use 4D reimbursement
 - Grant applications
 - Funding from districts through data showing cost savings
- Location and Oversight: FLF office in courthouse
- Staff:
 - Attorney manager
 - Non-attorney staff
 - Strong customer service, problem-solving skills
 - Multi-tasking ability
 - Bilingual and knowledge of court procedures a bonus

- Scope of services:
 - Family law and child guardianships
 - Later expansion to landlord-tenant and small claims
- Delivery of Services and Program needs:
 - Content-rich website including links to referrals
 - Technology for delivery of services:
 - Phone
 - Email
 - Chat
 - Intercounty video workshops via Zoom or Skype
 - Equipment:
 - Computers
 - Fax
 - Copier
 - High quality headsets
 - Phones
- Integration with existing Family Law Facilitation:
 - Seamless staff transition among remote and in person services
- Collaboration with Internal and Community Partners:
 - Strong partnerships with bench and bar and networks/contacts/LFLACS in each district
- Public access to computers/internet at each courthouse/law library and from home
- Collaboration with OJD forms groups

CALIFORNIA ORANGE COUNTY

The Orange County program is funded primarily by the court, but also through a State grant. It has five locations in the county. The program is managed by an attorney. Each location is staffed by attorneys (who act as site supervisors), paralegals and clerical staff.

They offer a continuum of services, remote, walk-in, document reviews, judicial referrals from courtrooms. They also support a number of Family Law self-help calendars. They hold workshops in multiple languages both remotely and in person. The Manager and Senior Attorney also serve as Family Law Temporary Judges as needed for procedural calendars. In 2017 they served 132,000 SRLs in person and over 120,000 remotely.

Items for Oregon to consider:

- A robust web site is essential to a successful self-help center
- Develop one to two-minute videos a month on a specific topic and post to YouTube
- Looking at online classes, Facebook Live- that type of service takes a lot of time
- Provide telephone assistance, no option to leave a message
- Use law school students as interns
- 84% of the family law cases are self-represented on at least one side
- Have good statistics and data gathering, “Data is money”

MINNESOTA

Minnesota has a consolidated Court system with budgeting addressed with a statewide Judicial Branch budget. They currently use Tyler Odyssey and have very similar court procedures to Oregon. Like Oregon they have a primary population center and remote rural counties who have

significantly less court activity. They began their program based on Alaska but immediately recognized it was beneficial to have it complement the in-person services they offered. They have strong web-based resources and staff who are intimately familiar with online resources. They have a substantial form bank and remote computer viewing to allow staff to work with people on filling out forms. Staff assist callers via phone, remote computer viewing and follow up emails. Many callers are referred to in-person facilitation in Judicial Districts that offer it. Minnesota staff provided significant start up advice and indicated a willingness to assist us in the future in the event we have questions.

UTAH

Utah presents a situation similar to Oregon in that, like the Willamette Valley, there is a heavy concentration of population along the Wasatch Front, but the rest of the state is more sparsely populated. Jessica VanBuren worked with Stacey Marz in Alaska and adapted the Alaska program to Utah's needs. Intrinsic to Utah's services is its comprehensive self-help website.

Staff assist people via phone, email and text. Utah, however, employs only attorneys, believing they are necessary because they help SRLs with every type of state court case, not just family law. They currently help an average of 20,000 customers a year, half of whom need help with family law cases. Half of the people contact them by phone, a third by email, and a sixth by text.

Utah faces some struggles with limited funding, which keeps them from operating full business hours. They also routinely travel to the various courts across the state for outreach and training. Jessica expressed a desire to implement courthouse facilitation because it was a definite need that the state was not filling.

The centralized remote delivery system that Utah has would be fairly simple to implement. They said they began with just an attorney with a desk and a phone. They encouraged us to 'just do it!' They also strongly advised that we strive for full funding at the start to avoid many of the struggles they have faced.

PROGRAM CONSIDERATIONS FOR OREGON

FUNDING

The greatest impediment to Oregon joining the ranks of states that provide universal remote court services is funding. There are varied models for funding among the states we have investigated.

Some funding comes from Federal IV-D reimbursements. Alaska and Northern California take advantage of this program, which reimburses two thirds of their program costs.

Programs may be funded by allocation from the court budget. This pays for the remainder of Alaska's program, and a large portion of the cost for the Orange County and Minnesota programs.

Utah receives statutory general budget funding from the Legislature.

Other sources of funding include grants and fees. Both California programs benefit from the California Legislature's Innovation Grant. Minnesota's program is partially funded by Bar fees.

Oregon's program could be funded by any of these sources, or a combination of them. It is important that the program receive adequate funding and that the funding sources be secure enough to weather the vicissitudes of budgets.

OVERSIGHT

There may be differing levels of oversight, but most programs are overseen by their own management, which in turn operate under the State Court Administrator. The Utah program, for example, has a Director who operates under the State Law Librarian, who reports to the State Courts, which includes an oversight committee. The Oregon program may be formed under an existing court division or constitute its own division.

A vital part of oversight is the need to collect data. All programs collect data to report on various metrics such as how many people they serve, in what case types and how much time was spent. They may also capture demographic, and staff performance data. The data informs the State on the need for continued and expanded funding, among other things.

LOCATION

The location of the 'centralized remote delivery' program is, in itself, not critically important because all services will be delivered virtually. Incidentally, we recommend that no in-person services be provided at the remote location. Some programs learned that to do so unfairly prejudiced litigants in other jurisdictions and, most importantly, sabotaged the efficient operation of the remote service center. However, the Minnesota program believed that cross training staff in both in-person and remote access services was a benefit since it allows staff to recognize and learn the difficulties with in-person facilitation, and to keep those issues fresh when addressing the litigants' needs remotely.

Placing the program in a location outside of the usual Willamette Valley locations could send a message that we are serious about serving the people all over the state, not just in the most populous counties.

On the other hand, siting the program in Salem or Portland may offer some logistical efficiency and allow access to a large pool of potential skilled employees. Also, access to strong IT services is a critical component, as demonstrated by the Northern California program. This either means that the program includes IT staffing or proximity to IT services that can fill the need.

SCOPE OF SERVICES

The Futures Committee proposes that the program begin by providing services for family law cases only. We would include guardianships of minors in that scope of services. Should the

program be able to expand to other case types to meet future need is something that can be addressed after the program is in place.

Virtual services include delivery by telephone, email, chat, fax, video/skype, webinars, website and virtual workshops. While, each of these has been implemented to varying degrees in the programs investigated, all use telephone and email. We propose that these forms of communication be implemented, and others as the SFLAC and others believe will be most efficacious. Typically, contacts are handled on a first come, first served basis, and the programs do not provide voice mail, having found that playing telephone tag is very inefficient. However, litigants are allowed to contact the program as many times as they wish. Telephone calls average about 20 minutes each.

Several of the programs that we studied also provide referral assistance to litigants to legal services, housing, domestic violence shelters, healthcare and the like, and consider this an important part of their mission.

STAFFING

Interestingly, our investigations revealed two different philosophies about what skill set makes the best staff. The two focuses are either legal background or customer service.

The founders and directors of the Utah program are invested in the idea that attorneys are the most capable persons to staff their program. They require that applicants all be law school graduates. They feel that attorneys are needed because they cover every type of case, not just family law. Minnesota and Orange County also hire attorneys and felt strongly that legal oversight was a necessary component for success.

The subcommittee is of the opinion that, generally speaking, customer service-oriented people can give the service needed because they have the people skills needed to successfully interact with the court's customers and can be trained in the law. However, particularly in the formative stages, it may be beneficial to have someone with legal training involved. The focus of the programs in Alaska and Northern California is on customer service.

APPENDIX:

- Remote Services Delivery Survey – Alaska
- Remote Services Delivery Survey – Minnesota
- Remote Services Delivery Survey – Northern California
- Remote Services Delivery Survey – Orange County, California
- Remote Services Delivery Survey – Utah
- John Greacen, Serving Self-Represented Litigants Remotely: A Resource Guide, Self-Represented Litigation Network, SRLN.org (2016) at https://www.srln.org/system/files/attachments/Remote%20Guide%20Final%208-16-16_0.pdf
- Courthouse Facilitation Summary (as of May 2018, self-reported by Oregon Courts)